

IN THE ALASKA SUPREME COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

PATRICK H. TORRENCE,

Petitioner,

vs.

STATE OF ALASKA FOR  
DEPARTMENT OF CORRECTION,

Respondent.

Supreme Court Case No. S-17750

Superior Court Case 3AN-19-10345CI

PETITION FOR HEARING

IN THE ALASKA SUPREME COURT

Did the Superior Court err in dismissing the appellant's  
Administrative Appeal from an Administrative Agency, under the proposed  
circumstances, and did it violate Alaska Law, and the United States  
Constitution?

I certify that on this date true and correct copies of the Petition  
For Hearing and this Certificate of Service were served via U.S. Mail on the  
following:

Department of Law  
Office of the Attorney General  
Anchorage Branch  
1031 W. Fourth Avenue, Suite 200  
Anchorage, Alaska 99501

REFUSED FOR FILING 4/23/20

Petitions for hearing  
of superior court final  
decisions are only allowed  
when the matter was  
appealed from district  
court to superior court.  
See Appellate Rule 302(b)(4).  
Your appeal in S-17750  
is an ongoing appeal  
of the superior court's  
final decision on an  
administrative appeal.  
See Appellate Rules 202 and 204.

We are currently awaiting the trial court record in  
S-17750. Once received, we will send you  
a copy of the record and set a due date for  
your opening brief. Many of the arguments  
made in this Filing may be made in your  
opening brief. We will also send you instructions  
1 of 8 and a sample brief.

Ryan Montgomery - Sytle CC: A. Pace  
Chief Deputy Clerk

FILED  
APR 22 2020  
APPELLATE COURTS  
STATE OF ALASKA

RECEIVED  
APR 23 2020  
APPELLATE COURTS  
STATE OF ALASKA

AUTHORITIES RELIED UPON

JURISDICTION 22.07.020 COURT OF APPEALS

JURISDICTION 22.10.020 SUPERIOR COURT

Article 3

Claims Against the State or State employess. Sec. 09.50.250.  
Actionable claims against the state. (a)(2)(3). (a)(2) isolates a person with  
gross negligence. (3) arises out of assault, battery, false imprisonment,  
false arrest, malicious prosecution, abuse of process, misrepresentation,  
deceit, or interference with contract rights: Isolated a penalty of \$500.00  
for each day of the improper isolation. \$500.00 x 60=30,000.00 60 days.  
From 7/15/19 - 9/13/19. Administrative Segregation without sufficient probable  
cause.

Article 6

22 AAC 05.400 Prohibited conduct for prisoners Major infraction (b)(6)  
assault by a prisoner upon another prisoner under the circumstances that  
create a substantial risk of serious injury; (c)(1) Mutual combat fighting  
(i.e., mutual combat) with a person; insufficient probable cause. And  
abandoned by the Department of Correction staff.

State of Alaska Department of Correction Policies and Procedures  
Chapter: Special management of prisoners Subject: Administrative Segregation.  
22 AAC 05.155.

Index 804.01 VI. Policy: The Department of Correction shall not use  
administrative segregation as punishment. However they placed the appellant  
there 60 days without sufficient probable cause.

VII. Procedures Administrative Segregation (A)(8) presents a substantial  
and immediate threat to the security of the facility or public safety;

ALASKA LAW AND CONSTITUTION  
Article 1 Declaration of Rights

Article 1 Section 1 Inherent Rights: Denied

Article 1 Section 3 Civil Rights: Denied

Article 1 Section 7 Due Process Procedural and Substantive: Denied

Article 1 Section 11 Rights of the Accused: Denied

Article 1 Section 24 Rights of Crime Victims: Denied

UNITED STATES CONSTITUTION

1 United States constitution Fourteenth Amendment Bill of Rights to the  
2 states by prohibiting states from denying fair and impartial due process and  
3 the equal protection and abridging the privileges and immunities of U.S.  
Citizenship. And depriving of life, liberty, or property without due process  
of law.

4 Fourth Amendment right prohibiting unreasonable seizure of a person or  
prisoner without probable cause.

5 Eighth Amendment right prohibiting cruel and unusual punishment: 60 days  
6 of improper Administrative Segregation.

#### 7 ADMINISTRATIVE SEGREGATION

8 VII. B. Placement in Administrative Segregation 1. Emergency Segregation  
9 Placement c. Except for inmates described in section A(1) and A(6) above, the  
10 Department shall not keep an inmate in administrative segregation for than 24  
11 hours unless the Superintendent determines in writing (on form 804.01A) that  
the inmate is a substantial and immediate threat to him or herself, others, or  
the security of the facility and sets out the facts that justify segregation  
of the inmate until a hearing is held pursuant to section C below.

12 Comment: this process was abused of its discretion.

1 INTRODUCTION:

2 1) Did the authorities follow the ten steps outlined as proper  
3 procedure for a disciplinary hearing before placing an inmate in administrat-  
4 ive segregation. No. They failed to provide an Appeal Process.

5 2) Did the Court err in its decision to dismiss the Administrative  
6 Appeal after noting the error of the Department of Correction improper  
7 Administrative Segregation. Yes.

8 3) Did the State of Alaska for the Department of Correction and the  
9 Court err in the fact that the Appellant pro se motion is to be liberally  
10 construed. Yes

11 4) Did the Department of Correction err in placing the appellant  
12 into Administrative Segregation for 60 days without sufficient probable cause.  
13 Yes.

14 5) Was the appellant injured? Yes. Was the appellant seriously  
15 assaulted? Yes Why was the appellant (c)(1) assault charges abandoned? Because  
16 he acted in self-defense after being attack. Why was the appeallant held  
17 maliciously in Administrative Segregation for 60 days without an appeal  
18 process under (A)(8)? Because of abuse of discretion; an adjudicator's failure  
19 to exercise sound legal decision making in the process.. The appellant made  
20 the call for emergence medical to security via speaker-intercom for help after  
21 he was attacked. Why was he arrested? To cover up lack of security and failure  
22 to protect.

23 6) Are these errors of constitutional magnitude? Yes.  
24  
25  
26

1       Background:

2       In my initial petition to the Superior Court, an Appeal from an  
3       Administrative Agency to the Superior Court. My complaints were numerous 1-30.  
4       The Honorable Superior Court Judge Josie Garton narrowed the complaint 1-15. At  
5       15 pursuant to Court's ruling in Barber, Torrence appears to have demonstrated  
6       an "actual inability to pay" the full and reduced filing fee as it pertains to  
7       his appeal of DOC disciplinary decision to place him in punitive segregation  
8       for 53 days.

9       Accordingly, it appears that Torrence's Motion to waive or Reduce Cost  
10      Bond should be granted with respect to his appeal of DOC decision to place him  
11      in punitive segregation but not to the remainder of his claims.

12      The parties have 10 days to object to the court's proposed action.

13      The Court was communicating Administrative Segregation not punitive  
14      segregation as the appellant was refering to Administrative Segregation.  
15      Improper Administrative Segregation. In this case they are one in the same as it  
16      refers to the deprivation of rights to fair and impartial due process and the  
17      equal protection of the law under Alaska law and the United States constitution  
18      law Fourteenth Amendment. The appellant was denied Substantive and Procedural  
19      fair and impartial due process of the law.

20      After recalculating of the Administrative Segregation Hearing Forms Date/  
21      Time placed in Ad Seg: 07-15-19 at 1445 PO Bauer - Next Review Date: 9-13-19  
22      PO Ridges Administrative Segregation Review Form totaling 60 days at Cookinlet  
23      pretrial facility before release. Changing the days and dollar amount as to  
24      Alaska law Article 3 Sec. 09.50.250 (2)(3) \$500.00 per day x 60=\$30,000.00  
25      for Administrative Segregation gross negligence due to insufficient probable  
26      cause deprivation of life, liberty, and property.

1 The (c)(1) Mutual combat charge was abandoned by the Department of  
2 Correction. But there was a failure to remove my person from the improper  
3 Administrative Segregation. Totaling 60 days with no type of appeal process.  
4 I eventually complained via RFI to PO Ridges at Cookinlet pretria who removed  
5 me from Administrative Segregation to Golf mod 9/14/19.

1           ARGUMENT:

2           How was the Department of Correction addressing safety concerns by  
3 placing the victim on Administrative Segregation (A)(8) when the victim wasn't  
4 the problem? Punishing the crime victim is not a safety concern. It is a  
5 violation of the victim's constitutional rights to fair and impartial due  
6 process and the equal protection of the law. And a deprivation of life,  
7 liberty, and property. Especially that this went on for 60 days with no appeal  
8 process and an attempt to cover up the sergeant's involvement by denying fair  
9 and impartial due process through the grievance system.

10           The Administrative Segregation Hearing Forms provide enough factual  
11 and legal information to prove what has been presented. Even Judge Garton had  
12 agreed to this somewhat initially until the State of Alaska Department of law  
13 attempted to turn this into a direct action against the State. This is not a  
14 direct action against the state it was an attempt at an Administrative Appeal  
15 from an Administrative Agency to exhaust remedies as taught in the ACLU manual.  
16 So I was attempting to state all factual information involved. How else can  
17 the court make a thorough examination of the facts and claims of the deprivat-  
18 ion of my constitutional rights that occurred at the Spring Creek Correctional  
19 Center and continued at the Anchorage Jail and at Cookinlet pretrial; where  
20 they found me to be correct and then move me into Golf module 9/14/19.

21           This brief summary contradicts what the State of Alaska for the  
22 Department of law presents.

1 Conclusion:

2 Remand with instruction to correct in the interest of justice.

3 Dated this 21<sup>st</sup>, day of April, 2020.

4 Patrick H. Torrence  
5 PATRICK H. TORRENCE